



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 09/692,249      | 10/19/2000  | Richard Gareth Warner | 4-30476B/C1C1       | 6806             |

1095 7590 04/08/2003

THOMAS HOXIE  
NOVARTIS, CORPORATE INTELLECTUAL PROPERTY  
ONE HEALTH PLAZA 430/2  
EAST HANOVER, NJ 07936-1080

|          |
|----------|
| EXAMINER |
|----------|

GUCKER, STEPHEN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1647     | 7            |

DATE MAILED: 04/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

|                 |                |                |        |
|-----------------|----------------|----------------|--------|
| Application No. | 09/692,249     | Applicant(s)   | Warner |
| Examiner        | Stephen Fucker | Group Art Unit | 1647   |

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 1/14/03  
 This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

Claim(s) 23 - 28 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) 23 - 28 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - All
  - Some\*
  - None of the CERTIFIED copies of the priority documents have been received.
  - received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). 2  Interview Summary, PTO-413  
 Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

## Office Action Summary

***Response to Amendment***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Any objections or rejections made in a previous Office Action that are not herein reinstated have been withdrawn.
3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the United Kingdom on 8/31/95. It is noted, however, that applicant has not filed a certified copy of the patent application as required by 35 U.S.C. 119(b).

*The Examiner has checked the parent application 09/025,989 of this instant Application and can find no record of any Priority Documents having been entered or matched with the parent application, so foreign priority has not been established or granted for the instant Application.*

4. Claims 23-28 are rejected under 35 U.S.C. 103(a) as being obvious over Cooper et al. (IDS reference AD) or Good (US 5,651,968) and further in view of Verma (US 4,591,573). Cooper teaches the oligosaccharides and spacer molecules of the instant invention as a synthetic conjugate linked to bovine serum albumin (abstract, page 199, and Table 1). Cooper has made these conjugates for the same purpose as the instant invention, i.e. a synthetic conjugate that can absorb xenographic antibodies (abstract). Good discloses carbohydrate conjugates meeting the limitations of the claims (column 11, lines 20-31 and Example 5) except for the use of bovine serum albumin instead of human serum albumin, but again, for the same purpose of the instant

Art Unit: 1647

invention, i.e. a synthetic conjugate that can absorb xenographic antibodies (abstract). Cooper or Good do not teach substituting human serum albumin for bovine serum albumin. Verma discloses that human serum albumin can be successfully substituted for bovine serum albumin in a conjugate designed to raise antibodies (column 4, lines 23-24). It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute human serum albumin for bovine serum albumin because the advantage of substituting human albumin for BSA is that the human albumin would be less likely to have an adverse immune response in humans than bovine serum albumin (BSA) (because human proteins when injected into humans are less likely to cause an immune reaction than a protein from an animal species other than human), and Verma provides evidence for a reasonable likelihood of success for such a substitution for synthetic conjugates designed for either raising antibodies or having antibodies bind to the conjugate.

5. No claim is allowed.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 1647

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gucker whose telephone number is (703) 308-6571. The examiner can normally be reached on Monday to Friday from 0930 to 1800. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached on (703) 308-4623. The fax phone number for this Group is currently (703) 308-4242, but Applicant should confirm this by phoning the Examiner before faxing.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

*SG*

Stephen Gucker

April 7, 2003

*Yvonne Eyler*  
YVONNE EYLER, PH.D  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600